

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT PADUCAH**

**CRIMINAL ACTION NO. 5:06 CR-00019-R**

**UNITED STATES OF AMERICA**

**PLAINTIFF**

**v.**

**STEVEN D. GREEN**

**DEFENDANT**

**UNITED STATES' RESPONSE TO THE COURT'S ORDER REQUIRING A BRIEF  
DETAILING CIRCUMSTANCES OF OBTAINING VICTIM IMPACT EVIDENCE**

Comes the United States, by counsel, and respectfully responds to the Court's Order requiring a brief detailing the circumstances of obtaining a summary of its victim-impact evidence and what it will require.

On August 26, 2008, the Court denied defendant's Motion to Declare the Federal Death Penalty Act Unconstitutional, Dismiss Aggravators, and Dismiss the Government's Death Penalty Notice. Order of 8/26/08, Doc. No. 139. With respect to the United States' proffered victim impact evidence in its Notice of Intent, the Court stated: "If this case reaches the sentencing phase, the Court believes this evidence will help to inform the jury about the individual circumstances of the case." *Id.* at 35.

The Court noted that the United States' "Notice of Intent references the harm to the family of each victim, and makes specific reference to the injuries to the two minor children orphaned as a result of their parents' death and to those presently caring for the children. . . ." *Id.* at 36. However, the Court stated that "the Notice is still somewhat general." *Id.* The Court concluded that it was, therefore, compelled to require the United

States to provide more specific victim-impact information, in large part, because “[t]he families of the victims are located overseas in a country in which the United States is currently engaged in military operations.” *Id.* at 37. However, the Court did not want to place a time limit on the United States’ production of more specific victim-impact evidence because it did not know “the amount of time and resources producing such a summary will entail.” *Id.* at 38.

In this case, as the United States’ Notice of Intent implies, family members of the victims are expected to testify about how the defendant injured, harmed, and caused them loss after Green allegedly raped and murdered Abeer Kassem Hamza Al-Janabi, and killed her six-year-old sister, her mother, and her father. Furthermore, it is expected that family members will provide evidence of how the injuries of the defendant’s alleged crimes have extended to the Al-Janabi’s two orphaned minor children. These family members are Iraqi nationals and are currently located in Iraq.

As the Court is, of course, well aware, the United States is engaged in a conflict in Iraq and is conducting active military operations in that country. It is currently not possible to obtain a summary of victim-impact evidence because the witnesses have relocated due in part to the crimes allegedly committed by Green and others. Although U.S. authorities are coordinating with the Iraqi government in attempting to locate Iraqi civilian witnesses, the ongoing conflict and the country’s limited infrastructure has made communicating with the witnesses a slow and potentially dangerous process.

For these reasons, it is difficult to provide the Court with a date certain when the United States will be able to provide defense counsel with a summary of its victim-

impact evidence. However, taking into account the coordination required with the Iraqi government, the United States believes that it will be in communication with the victim witnesses within 60 days. After that, the United States anticipates that U.S. authorities will be in a position to obtain a summary of the testimony of the victim witnesses after an additional three to four weeks.

In short,, the United States expects that it will be in contact with Iraqi civilian witnesses within sixty days and have summaries of its victim-impact evidence to provide to defense counsel by February 1, 2009. In going forward, if the United States believes it cannot abide by this schedule, the undersigned will alert the Court. Of course, if the United States is able to obtain a summary of the anticipated testimony of Iraqi victim witnesses in advance of current predictions, it will immediately make that information available to counsel for the Defendant.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on November 3, 2008, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send notice of electronic filing to Scott T. Wendelsdorf, Federal Defender, Patrick J. Bouldin, Assistant Federal Defender, and Darren C. Wolff, counsel for defendant, Steven D. Green.

/s/ Marisa J. Ford

Marisa J. Ford

Assistant United States Attorney